

REHABILITATION TREATMENT FOLLOWING AN ACCIDENT

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In this month's issue Steven Hinchliffe of the specialist Personal Injury firm Hinchliffes Solicitors will consider "REHABILITATION TREATMENT FOLLOWING AN ACCIDENT".

Accident compensation cannot fully recompense an injured person for their pain and suffering or for all their losses. The use of rehabilitation is therefore becoming more common during Personal Injury claims. One of the main purposes of rehabilitation is to try and return the injured person to as productive and independent a lifestyle as possible by means of medical, functional and vocational intervention.

The 2007 Rehabilitation Code aims to "promote the use of rehabilitation and early intervention in the compensation process so that the injured person makes the best and quickest possible medical, social and psychological recovery", and applies to all claims, irrespective of the severity of the injuries suffered.

Research shows that in many accident compensation claims rehabilitation has enabled the injured person to recover more quickly, improving their quality of life during the recovery period, and has resulted in an earlier return to work. It therefore seems an important factor in attempting to return the injured party to the same position they would have been in had it not been for the Defendant's negligence.

In accident claims the only remedy available through the Courts is financial compensation, and the cost of rehabilitation can be included, so long as it is considered to be reasonable.

Once the injured person instructs solicitors to pursue a claim, they should consider whether early intervention, rehabilitation or medical treatment would improve the present or long term situation. The focus should always be on the needs of the Claimant. The solicitors should liaise with the Defendant's insurers at an early stage, to agree what steps should be taken to promote an early recovery.

Often it is necessary for there to be an independent assessment to establish the most appropriate form and extent of rehabilitation required. If the injuries are modest, this could be carried out during a telephone call, but for severe injuries the assessment would probably need to be done in person (either at home or in hospital). In cases of catastrophic injuries a specialist case manager would likely be required to act on behalf of the injured person.

Assessments should always be conducted by appropriately qualified and experienced personnel, eg an occupational therapist, a specialist nurse or someone with a specific rehabilitation qualification.

If the Defendant's insurers accept liability for the accident they will usually pay for any treatment required. However, if they refuse an application to the Court could be made to order them to make the necessary funds available.

If liability is disputed, the injured person may need to rely on NHS resources or health insurance cover for the treatment, unless they can fund the cost themselves, until issues of liability are resolved. If any treatment is paid for privately (eg a course of physiotherapy) the cost can be included in the claim, but may only be recovered from the Defendant's insurers if the claim is ultimately successful.

Rehabilitation can take the form of medical investigations and physical therapy or treatment, nursing care, psychological evaluation and treatment, the provision of equipment or, if the injuries are particularly severe with long

term consequences, accommodation adjustments. Whatever its form, it should reflect the injured person's changing needs and should be planned and implemented based on the advice of medical professionals.

A "holistic" approach not only benefits the injured person by aiding their physical, psychological and emotional recovery, but also benefits the Defendant's insurers. A fast recovery and return to normality can limit the level of compensation the insurers may have to pay, particularly regarding lost income while off work. Therefore it is often in their interests to fund rehabilitation at an early stage of a claim to achieve an overall saving.